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5 IN THE UNITED STATES DISTRICT COURT
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA

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8 IN RE: CATHODE RAY TUBE (CRT)) MDL No. 1917
9 ANTITRUST LITIGATION)
10) Case No. C-07-5944-SC
11)
12) ORDER APPOINTING SPECIAL
13) MASTER
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15 The Court has suggested the appointment of Mr. Martin Quinn as
16 an additional Special Master for this case. See Fed. R. Civ. P.
17 53(a)(1)(A), 53(a)(1)(C). The Court gave the parties an
18 opportunity to be heard by permitted parties to submit objections
19 via an order to show cause. See Order of the Court dated September
20 2, 2015, ECF No. 4033 ("Show Cause Order"), Fed. R. Civ. P.
21 53(b)(1). The Court received two objections, plus a response to
22 one of the objections. See ECF Nos. 4043, 4046, 4049. Parties
23 objected to the form of this Order, not to Mr. Quinn himself. The
24 Court granted a hearing, held on September 11, 2015. The Court now
25 finds that parties have had a full, fair opportunity to be fully
26 heard on this matter. Objections are accommodated in this Order or
27 else are OVERRULED. The Court finds that parties have consented to
28 a Special Master performing these duties as presently anticipated,

1 which excludes the pending DPP settlement. See Fed. R. Civ. P.
2 53(a)(1)(A). The Court accepts as true assertions by certain
3 Counsel made during the hearing on September 11, 2015 that it will
4 not be necessary for the Special Master to review a fee motion for
5 DPPs, but reserves the right to refer the matter to the Special
6 Master should Counsel prove to be incorrect. The Court also finds
7 that determinations of attorneys' fees and related matters being
8 referred to Mr. Quinn are "posttrial matters that cannot be
9 effectively and timely addressed by an available district judge or
10 magistrate judge of the district." See Fed. R. Civ. P.
11 53(a)(1)(C). Accordingly, appointment of a Special Master is
12 proper.

13 WHEREFORE, IT IS HEREBY ORDERED that, pursuant to Federal Rule
14 of Civil Procedure 53, Mr. Martin Quinn is appointed as Special
15 Master to supervise and preside over all "designated posttrial
16 matters," as defined herein.

17 The Special Master has filed a declaration under 28 U.S.C. §
18 455 stating that there is no ground for disqualification. During
19 the course of these proceedings, the Special Master and the parties
20 shall notify this Court immediately if they become aware of any new
21 potential grounds that would require disqualification.

22 **1. Scope of Duties**

23 This Order shall apply to all cases currently pending in MDL
24 No. 1917 and to all related actions that have been or will be
25 originally filed in, transferred to, or removed to this Court and
26 assigned thereto (collectively, "the MDL proceedings"). This Order
27 is binding on all parties and their counsel in all cases currently
28 settling or subsequently settling whose posttrial matters fall

1 within the scope of the designated posttrial matters detailed
2 below. This presently includes settling Indirect Purchaser
3 Plaintiffs, though may in the future include other settling parties
4 should the Court believe the circumstances of those settlements
5 satisfy Fed. R. Civ. P. 53(a)(1)(A) or (C). In such circumstances,
6 the Court will not initiate separate appointment procedures to
7 appoint Mr. Quinn as a Special Master, as he has already been
8 appointed, but will permit parties to file objections upon good
9 cause shown that a circumstance has changed or newly come to light.

10 Pursuant to Rule 53(a)(3), the Court has considered the
11 fairness of imposing the likely expenses of the Special Master on
12 the parties. The Court believes that the appointment and use of
13 the Special Master will materially advance the litigation, thereby
14 achieving considerable cost-savings to all parties. The Court will
15 protect against unreasonable expenses and delay through regular
16 communication with the Special Master and Lead Counsel for the
17 Indirect Purchaser Plaintiffs or other relevant Counsel.

18 Pursuant to Rule 53(b)(2)(A), the Special Master shall
19 adjudicate all designated posttrial matters. These matters shall
20 include assisting the Court with the approval of the pending
21 settlements in the Indirect-Purchaser Cases, the determination of a
22 fair, reasonable, and adequate aggregate award of attorneys' fees
23 and the reimbursement of expenses to all plaintiffs' counsel, a
24 fair and reasonable division of the aggregate award among
25 plaintiffs' counsel, and service awards to the named plaintiffs,
26 including any objections to these matters, and dealing with any
27 other matters that the Court may direct him to undertake. This
28 specifically excludes pretrial discovery disputes, excludes

1 disputes arising during the course of pretrial depositions, and
2 excludes any pretrial motion. Such disputes have been previously
3 assigned to Judge (Ret.) Walker or Magistrate Judge (Ret.) Larson
4 (appointment subject to objections), whose present and pending
5 appointments as Special Masters remains unaffected by this separate
6 appointment of a third, distinct Special Master.

7 The Special Master may approach these duties in whatever
8 manner he deems proper. For example, he may (but is not required
9 to) ask Lead Counsel for the Indirect Purchaser Plaintiffs to
10 allocate the attorneys' fees among Plaintiffs' Counsel in the first
11 instance in a manner which Lead Counsel in good faith believes
12 reflects the contributions of such counsel to the prosecution and
13 settlement of the Action. However, all aspects of such allocation
14 must remain entirely subject to the Special Master's review.
15 Moreover, and to alleviate concern by certain parties, the Special
16 Master must expressly consider and include within a Report and
17 Recommendation a review of the appropriate allocation of the
18 aggregate award among each of the plaintiffs' firms who have
19 contributed to this litigation, to include division of fees and
20 reimbursement of costs.

21 The Special Master shall assist the Court by preparing reports
22 and issuing recommendations in the Indirect Purchaser Cases or
23 other, later assigned cases on the subjects of: (1) final approval
24 of the pending settlements, including any objections thereto; (2)
25 the aggregate award of attorneys' fees and expenses to all
26 Plaintiffs' Counsel; (3) a fair and reasonable division of the
27 aggregate award among plaintiffs' counsel; (4) service awards to
28 named Plaintiffs, including any objections thereto; and (5) the

1 reimbursement of the parties' expenses, including any objections
2 thereto. See Fed. R. Civ. P. 53(e). All recommendations submitted
3 by the Special Master concerning these matters shall be filed and
4 served as set forth below.

5 The Special Master is authorized to retain independent
6 auditors, accountants, and clerical assistants to assist him with
7 the preparation of any report concerning expenses or fees.

8 In connection with his duties, the Special Master is
9 authorized to employ such processes, and to request such evidence
10 and information, in whatever form is appropriate, as will
11 contribute to a fair and efficient resolution of such issues.

12 **2. Special Master's Authority**

13 The Special Master shall have all the authority provided in
14 Rule 53(c), including but not limited to the authority to set the
15 date, time and place for all hearings, to preside over hearings
16 (whether telephonic or in-person), to take evidence, to conduct
17 telephonic conferences to resolve disputes arising during
18 depositions, to recommend contempt sanctions to the Court, and to
19 issue orders awarding non-contempt sanctions, including, without
20 limitation, the award of attorneys' fees, as provided by Rules 37
21 and 45. The Special Master may determine disputes arising from
22 failing to abide by sanctions set forth by the Special Master. The
23 Special Master is authorized to receive and consider information
24 designated as confidential pursuant to the Protective Order entered
25 in this matter, and may review privileged material in camera. The
26 Special Master agrees to be bound by said Protective Order.

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1 **3. Procedure for Motions Submitted to the Special Master**

2 The procedural requirements contained in the Court's Pretrial
3 Orders shall govern any motion practice before the Special Master,
4 unless the Special Master orders otherwise.

5 **4. Preservation of Record**

6 **a. Preservation of Materials and Preparation of Record**

7 Pursuant to Rule 53(b)(2)(c), the Special Master shall
8 maintain orderly files consisting of all documents submitted to him
9 by the parties and of any of his written orders, findings and/or
10 recommendations. Pursuant to Rule 53(e), the Special Master shall
11 file any written orders, findings, and/or recommendations with the
12 Court via the Court's Electronic Case Filing ("ECF"). Such filing
13 shall fulfill the Special Master's duty to serve his orders on the
14 parties.

15 **b. Special Master's Reports to Court**

16 Pursuant to Rule 53(e), the Special Master shall issue orders
17 on motions presented to him which shall be final and not require
18 the Court's signature, subject to the parties' right to file
19 objections as described below. Further, the Special Master shall
20 prepare reports and recommendations to the Court on the subjects
21 stated herein. If the Special Master considers it advisable to
22 make any other report to the Court, he shall do so in accordance
23 with Rule 53(e).

24 **5. Action on Orders, Reports, or Recommendations**

25 Pursuant to Rule 53(f), the procedures described in paragraphs
26 5(a)-(d) herein shall govern any action on the Special Master's
27 orders, reports and/or recommendations.

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a. Time Limits for Review

Any party wishing to file objections or a motion to adopt or modify the Special Master's orders, reports and/or recommendations must file such objections or motion with the Court within 14 days from the day the Special Master filed the order, report, and/or recommendation via ECF. Any order issued by the Special Master shall remain in effect pending any such objection or motion. Any opposition shall be filed within 7 days after the objection on the motion is filed.

b. Filing the Record for Review

The party filing the objection or motion shall submit with such objection or motion any record necessary for the Court to review the Special Master's order, report and/or recommendation, including any transcripts of proceedings before the Special Master and any documents submitted by the parties in connection with the Special Master's order, report and/or recommendation. Failure to provide the record shall constitute grounds for the Court to overrule the objection or deny the motion.

c. Standard for Review

Pursuant to Rule 53(f)(3)-(5), the Court shall review findings of fact made or recommended by the Special Master for clear error. The Court shall review de novo any conclusions of law made or recommended by the Special Master. The Court will set aside the Special Master's ruling on a procedural matter only for an abuse of discretion.

d. Court's Actions on Special Master's Orders

Pursuant to Rule 53(f)(1), in acting on an order or R&R of the Special Master, the Court shall afford the parties an opportunity

1 to present their positions and, in its discretion, may receive
2 evidence, and may adopt or affirm; modify; wholly or partly reject
3 or reverse; resubmit to the Special Master with instructions; or
4 make any further orders it deems appropriate.

5 **6. Ex Parte Communications**

6 Pursuant to Rule 53(b)(2)(B), the Special Master may
7 communicate ex parte with the Court at any time. Generally, the
8 Special Master shall not communicate ex parte with any party
9 without first providing notice to, and receiving consent from,
10 Plaintiffs' Lead Counsel and Counsel for any other interested
11 party. However, without providing notice or obtaining consent, the
12 Special Master may communicate ex parte with a party for the
13 limited purposes of administrative matters such as scheduling
14 hearings, telephone calls or briefing, if such arrangements cannot
15 be made in a timely manner by contacting the Special Master's
16 administrative assistant.

17 **7. Compensation**

18 Pursuant to Rule 53(g), the Special Master shall be
19 compensated at an hourly rate of \$700.00 for his services as
20 Special Master in the MDL proceedings, plus the Administrative Fee
21 charged by JAMS, and shall be reimbursed for any out-of-pocket
22 expenses (e.g. cost of accountants, auditors and clerical
23 assistants, and expenses for telephone conference calls). The
24 Special Master shall not charge for travel time. The Special
25 Master shall prepare a monthly invoice for his services, which he
26 shall provide to Lead Counsel for the Indirect Purchaser Plaintiffs
27 (or such other counsel as the Court should in the future direct) to
28 be paid from the Litigation Fund. In connection with objections

1 and discovery matters, the parties shall each pay an equal share of
2 the cost.

3 **8. Diligence**

4 Pursuant to Rule 53(b)(2), the Court hereby directs the
5 Special Master to proceed with all reasonable diligence in
6 performing his duties in the MDL proceedings.

7 Within seven (7) days of this order or according to such
8 schedule as the Special Master may otherwise publish, all parties
9 with pending designated posttrial matters shall contact the Special
10 Master to discuss the execution of his duties in connection with
11 this order.

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13 IT IS SO ORDERED.

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15 Dated: September __, 2015

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17 UNITED STATES DISTRICT JUDGE
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